

CAPITAL PROJECTS ADVISORY REVIEW BOARD

**John L. O'Brien Building
504 15th Avenue, Hearing Room C
Olympia, Washington
December 8, 2005
9:00 AM**

Final Amended Minutes

| <u>MEMBERS PRESENT</u> | <u>REPRESENTING</u> | <u>MEMBERS ABSENT</u> | <u>REPRESENTING</u> |
|-------------------------------|--------------------------------|------------------------------|------------------------------|
| Gerald "Butch" Reifert | Design Industry | Appointment Pending | House of Representatives (R) |
| Rocky Sharp | Specialty Contractor | Sen. Dave Schimdt | Senate (R) |
| Ed Kommers | Specialty Contractor | David D. Johnson | Construction Trades Labor |
| Carolyn Crowson | OMWBE | | |
| Olivia Yang | Higher Education | | |
| John Lynch (Chair) | General Administration | | |
| Rodney Eng | Cities/Counties/Ports | | |
| Michael Mequet | Cities/Counties/Ports | | |
| Wendy Keller | Public Hospital Project Rvw Bd | | |
| Dan Vaught | School District Project Rvw Bd | | |
| Rep. Kathy Haigh (Vice Chair) | House of Representatives (D) | | |
| Gary Ballew | Cities/Counties/Ports | | |
| Larry Byers | Insurance/Surety Industry | | |
| Daniel Absher | General Contractor | | |
| Sen. Phil Rockefeller | Senate (D) | | |

STAFF & GUESTS

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|--|------------------------------------|
| Nancy Deakins, GA | Larry Stevens, MCA, NECA |
| Searetha Kelly, GA | Al Schaffler, OMWBE |
| Valerie Gow, Puget Sound Meeting Services | Stan Bowman, AIA WA Council |
| Ginger Eagle, WPPA | Dick Goldsmith, AWPFD |
| Paul Szumlanski, GA | Paul Berry, CMAA |
| Rodger Benson, Mortenson Company | Duke Schaub, AGC |
| Ashley Probart, AWC | Jill Satran, WSDOT |
| Ginger Eagle, Washington Public Ports Association (WPPA) | Steve Masse, OFM |
| Michael Transue, Associated General Contractors (AGC) | Charlie Brown, King County Schools |

Welcome & Introductions – Chair's Comments

Chair John Lynch called the Capital Projects Advisory Review Board (CPARB) meeting to order at 9:08 a.m.

A meeting quorum was attained. Chair Lynch reviewed the meeting agenda.

Boardmembers provided self-introductions.

Chair Lynch reminded members about the Governor's reception at the Executive Mansion on December 15, 2005. To date, Dan Absher, Butch Reifert, Rocky Sharp, Ed Kommers, David Johnson, Carolyn Crowson, John Lynch Larry Byers, and Nancy Deakins have confirmed attendance.

Approve Agenda

Dan Absher moved, seconded by Rocky Sharp, to approve the agenda as presented. Motion carried.

Approval of November 10, 2005 Minutes

Carolyn Crowson moved, seconded by Butch Reifert, to approve the minutes of November 10, 2005 as presented. Motion carried unanimously.

Public Comments

Dick Goldsmith, Association of Washington Public Hospital Districts, said he appreciated staff's efforts in establishing the CPARB website and for the opportunity afforded to nonmembers for participating on the subcommittees.

Rodney Eng arrived at the meeting at 9:15 a.m.

Reports from Subcommittees

Data Collection Subcommittee – Carolyn Crowson

Carolyn Crowson referred members to the minutes of the last subcommittee meeting. Ms. Crowson asked for approval to add Steve Goldblatt, University of Washington, as a member of the subcommittee.

Dan Vaught arrived at the meeting at 9:18 a.m.

The subcommittee is examining a number of performance measures. Comments by subcommittee members have been reviewed for inclusion of performance measures pertaining to numerous categories for construction. At this time, the subcommittee has decided not to finalize the categories but rather continue examining what the private sector does in terms of measuring performance of construction projects. Members also agreed it is not helpful to create data and then send the data to the Office of Finance and Budget because personnel do not have a construction background. The data needs to be utilized by public owners to improve the management of construction projects. Subcommittees agreed to recommend to the CPARB, a group of categories that subcommittee members believe most measures can be organized within:

- Schedule Performance
- Cost Performance
- Contract Changes
- Contractor Selection Process
- Subcontractor Selection Process
- Certified/Formal Claims
- Value Performance (to include subjective and industry specific projects)

The subcommittee will present specific recommendations on what measures will be included under each category.

Chair Lynch asked whether the “Cost Performance” is for a total project cost or just for the construction cost excluding soft costs. Ms. Crowson advised the subcommittee has not narrowed the measurements but that six to seven different cost measures are under review.

Daniel Absher asked whether customer satisfaction was considered. Ms. Crowson said it would likely be included within the “Value Performance” category.

Chair Lynch inquired about the target date for completion of the performance measures. Ms. Crowson replied the subcommittee is working on external information and did not set a date for completion of the measurements. Chair Lynch recommended establishing a deadline prior to the 2007 legislative session to support any recommendations for legislation. Ms. Crowson confirmed she will provide the feedback to subcommittee members.

Discussion ensued about membership of the subcommittee. Ms. Crowson requested adding Michael Transue, Alan Nygaard, Steve Goldblatt, Steve Masse, and Teresa Rodriguez as members of the Data Collection Subcommittee.

Representative Haigh asked whether the subcommittee considered the factors surrounding differences in cost estimates provided by architects and engineers versus the actual bid amount. Ms. Crowson said members did not discuss the issue at the last meeting. Representative Haigh said one of her concerns involves those instances where all bids are rejected. In most cases, it occurs when the estimates are lower than the bid amounts. Chair Lynch suggested the data that is needed is the architect’s estimate prior to bidding and a comparison of the two amounts.

Ed Kommers moved, seconded by Daniel Absher, to approve the addition of Michael Transue, Association of General Contractors; Alan Nygaard and Steve Goldblatt, University of Washington; Teresa Rodriguez, City of Seattle; and Steve Masse, Office of Financial Management, as members of the Data Collection Subcommittee.

It was noted that Michael Transue is replacing Dan Absher and Rick Slunaker on the subcommittee and Teresa Rodriguez is replacing Rodney Eng.

Reauthorization of Alternative Public Works - Rodney Eng

Mr. Eng reported the subcommittee met on December 1. Attendance was limited due to snow.

At the last meeting, subcommittee members drafted 20 major issues that were a barrier to reauthorization. Subcommittee members narrowed the list and eliminated three issues that are not critical in the subcommittee’s recommendation for reauthorization of alternative public works. Subcommittee members were asked to prioritize and group as well as consider how to address the issues. Subcommittee members agreed to establish task forces to address the issues that were categorized into three major groups. The task force groups will meet monthly and report to the subcommittee on progress in moving the issues forward.

Mr. Eng noted members discussed moving forward in addressing the issues and not dwell on process. Subcommittee members were able to consider and resolve an issue at its last meeting concerning a unanimous motion to support a recommendation to the CPARB that reauthorization be considered under the following terms:

- Sunset date of six years
- CPARB should be the body to continue to monitor and review the legislation during the six years

Mr. Eng reviewed the membership of the subcommittee. Larry Stevens was added as a member of the subcommittee at the November CPARB meeting. Mr. Eng reported he received three additional requests for membership to the subcommittee. They include Paul Berry, a former City of Seattle employee who is involved in project management. Mr. Berry has volunteered to lead one of the task force groups. The second and third member requests are from Steve Goldblatt and Duke Schaub. Previously, the CPARB agreed with 15-member subcommittees. Mr. Eng requested an exception to the member limit and asked for confirmation of all three members.

Ed Kommers provided additional information about the subcommittee's unanimous motion, which essentially included that if the legislation is renewed under the conditions that will be negotiated, that the six-year sunset period is appropriate.

Mr. Eng reviewed the focus of each task force:

1. Group #1 will focus on owner and project eligibility. There are various issues regarding owners of projects.
2. Group #2 will focus on MACC regarding the setting of the MACC, use of the MACC contingency, and issues about changing market conditions during the life of a project.
3. Group #3 will focus on contractors/subcontractors concerns and issues about change order administration, response times, standard subcontract terms, and general conditions.
4. Group #4 will focus on qualification issues surrounding the RFP process and related issues.

Mr. Eng reported each task force will develop succinct issues and attach pros and cons as well as a recommendation to the subcommittee to forward to the CPARB. The assignment for the next meeting is to focus on determining the issues and opposing views to afford a full discussion with the subcommittee. Mr. Eng indicated no specific deadlines were established as everyone is aware of the deadline regarding the current legislation. He indicated it is anticipated the subcommittee will submit a recommendation package for the CPARB's September 2006 meeting.

Olivia Yang recommended appointing John Palewicz as her replacement on the subcommittee.

Discussion ensued about appointments to the subcommittee. Mr. Eng commented on the importance to ensure a sufficient number of members for each task force.

Daniel Absher moved, seconded by Rocky Sharp, to appoint Stan Bowman, AIA WA Council; Paul Berry; Steve Goldblatt, University of Washington; Duke Schaub representing Associated General Contractors; and John Palewicz, University of Washington (replacement for Olivia Yang) as members of the Reauthorization of Alternative Public Works Subcommittee. Motion carried.

Representative Haigh referred to membership of the Data Collection Subcommittee and suggested including a member from the State Auditor's Office. She indicated she spoke to Linda Long from the Auditor's Office about assigning a member to represent the Auditor's Office. Ms. Crowson acknowledged the request to recruit a member from the Auditor's Office.

Expansion Subcommittee – Olivia Yang

The subcommittee met on December 2, 2005. The goal of the meeting was to identify project and owner eligibility issues. Subcommittee members echoed similar concerns of the Reauthorization Subcommittee concerning structured transition for new owners and whether to include some kind of standards or approval process, mentoring, or oversight processes. For project related issues, members discussed better definitions for defining project eligibility for alternative procurement. The current complex and detailed requirements were

noted and reviewed. It is believed the criteria can be improved to reflect more accurately the nuances of projects.

Members agreed to spend the January meeting reviewing issues and begin drafting legislation. Mr. Eng has volunteered to draft language.

Ms. Yang reported at the last subcommittee meeting, the discussion focused on GG/CM. At some point, members will discuss other alternatives and possibly provide some recommendations.

Ms. Crowson said the Data Collection Subcommittee also discussed the starting size for eligible projects. Ms. Yang said the issue would likely fall under either the Reauthorization or Expansion Subcommittees. Mr. Eng said one of the Reauthorization Subcommittee's goals is that the Expansion Subcommittee obtains results. It is likely the project size eligible for alternative public works is more appropriately addressed by the Expansion Subcommittee. However, there is sufficient overlap between the committees to ensure the issue is addressed. The goal is not to duplicate other subcommittee work.

Discussion ensued about the size of projects and the appropriate subcommittee to review the issue. Ms. Crowson said Data Collection Subcommittee members discussed that as measurements are reviewed, a \$2 million project versus a \$50 million project will not be measured equally and will have different performance measures due to the size of the project. Mr. Eng said the Expansion Subcommittee considered in a broader environment, what would constitute an "eligible project." There was discussion about how the project figure of \$10 million was established and why it was established as the right size of a project in 1994. Mr. Eng said it is likely it was a legislative compromise between two opposing factions. An element the subcommittee should consider is whether there is a better definition for the "right type" of project for GC/CM or DB and can it be established as well for determining a project cost threshold. However, he suggested it may not be necessary to try to maintain the \$10 million project cost. He advised that at this point, for CPARB members to not direct the subcommittee to pick a project cost figure.

Garry Ballew pointed out there are numerous historical projects that range from \$3 to \$5 million. He suggested against deciding on projects at that this point due to the dollar amount.

Mr. Absher replied that the issue is appropriate for the Expansion Subcommittee to consider as long as the project cost threshold remains at \$10 million. If the threshold is opened there will be many contractors that will have concerns. It's difficult to determine what subcommittee should consider the issue, however; if it is expanded to include lower cost projects there will be many contractors who will turn a blind eye to the legislation because it will be the larger projects that will be of concern.

Representative Haigh suggested instead of considering project cost, the number of projects should be considered and, if in fact, smaller projects are allowed to utilize the process, smaller companies could participate in the process. Requiring a high dollar amount is not necessarily protecting the larger companies. Mr. Absher agreed but noted the constituents he represents do not agree. He noted that in reality, if the threshold is lowered to \$2 million there will be more contractors protesting the process. Ms. Yang said the input is valuable. She suggested the Expansion Subcommittee should consider the issue with the understanding that if the threshold is substantially lowered, there will be many issues to contend with. Mr. Absher said another issue is who can utilize the process as there is a difference between a \$3 million school project versus a \$3 million emergency room remodel that clearly takes some special expertise.

Ms. Yang reviewed the subcommittee membership and possible new members. She requested deferral of appointing any new members until the next CPARB meeting.

Chair Lynch recessed the meeting for a break from 10:11 a.m. to 10:27 a.m.

Briefing on Proposed School Districts' Legislation

Dan Vaught briefed members on potential legislation for school construction projects. He referred members to additional information supporting a K-12 legislative request. He said he contacted the Office of Superintendent for Public Instruction (OSPI) to begin documentation on the volume of bond initiatives and the types of projects school districts might bring to the School Districts Project Review Board if there were opportunities for additional authorizations.

The coordinators from OSPI did not have sufficient information about various bond measures throughout the state for the next 12 to 24 months. In lieu of limited information, Mr. Vaught referred to information about bond measures scheduled for the February 2006 ballot that have been confirmed. All of the bond measures are located in western Washington. There are approximately \$2 billion in bond requests from a dozen local districts. There are other bond measures statewide that have not been confirmed. Work continues on documenting the information. The preliminary information provides a good indication of what projects will occur during the next 12 to 24 months.

Mr. Vaught said he also confirmed with many of his colleagues the types of projects that are in the pipeline that are both funded or to be funded from the 2006 ballot, and which projects may be eligible for the GC/CM process. There are a significant number of projects that could be considered. Projects range above \$10-\$20 million up to \$50 million. Typically, the projects involve occupied, secondary schools, which are the types of projects the School Districts Project Review Board reviews.

Mr. Vaught referred to the original draft language of the GC/CM schools amendment, which is the preferred draft if there are no issues associated with the proposed legislation. The second proposed draft amendment proposes authorizing 10 school district GC/CM projects per year above \$10 million. A modification of the second draft may be more appropriate given what has been discussed by the CPARB and subcommittees because the sunset is being considered for extension. In that case, 10 school projects might be an appropriate number based on the criteria that the subcommittee ultimately develops. Additionally, a proposed draft is included for 16 GC/CM school projects above \$10 million over the next two-year period to fall within the framework of the legislation sunset. School districts across the state are interested in extending the GC/CM opportunity and want to work with the Data Collection Subcommittee to ensure the tool is used appropriately and that there is consensus.

Chair Lynch described the school district process for approval of GC/CM projects. The school district process includes a specific number of project slots. He noted the Hospital District Review Board was created specifically for hospital projects but operates slightly different in that there is no fixed number of project slots. There are many different processes associated with alternative public works from the review boards to the way authorized users are selected, such as size of county or dollar size of project. The CPARB could also consider bringing some consistency to the process.

Mr. Absher asked whether the projected school district GC/CM projects have been approved. Mr. Vaught said most of the projects are predicated on the passage of bond measures in February 2006. Mr. Eng inquired about the status of the projects in terms of design and engineering and when the projects will be readied for submittal to the review board. Mr. Vaught said most of the projects have undergone some level of preliminary programming but none of the projects are in schematic design. On several of the projects, the architect has been selected because the project is a continuation of a plan.

Representative Haigh asked how the project costs were estimated. Mr. Vaught reported each school district estimates bond planning differently. Generally, there are design professionals involved to provide a professional cost estimate in evaluating the program and preliminary concept drawings to determine an appropriate project cost. In many school districts, previous bond measures provide planning funds to maintain progress on the planning process. Some planning has been initiated on some of the projects.

Senator Rockefeller arrived at the meeting at 10:43 a.m.

Discussion followed on the types of school GC/CM projects and criteria that is included within the legislation. Mr. Absher suggested the CPARB should convey that a review board process is an effective way to ensure the project is truly qualified.

Chair Lynch suggested the documentation of the review board process might be beneficial to include on CPARB's website. Representative Haigh asked whether any regular reporting is undertaken to the legislature. Mr. Vaught reported not at this time. The JLARC study was intended to begin the process. It will likely be included in the subcommittee's discussion. There are several school districts that could benefit from interfacing with the subcommittee that is focusing on the issue to provide data. For example, his district completed a compilation of GC/FM projects. One project is eligible to start that is currently undergoing preplanning, dependent upon the upcoming bond as well as approximately \$100 million in total project costs for DB work. There might be some benefit to focus on a district, such as his district or a consortium of districts that have both types of projects. Once the criteria is established, it will enable cross referencing of different levels of success between traditional versus alternative public works projects. Mr. Vaught added there have been several projects approved by the review board based on a district's past record in passing bond measures. Northshore was approved pending bond approval.

Wendy Keller inquired whether school districts would consider a minimum instead of all 16 project approvals. Mr. Vaught pointed out the projects are all reviewed by the School Districts Project Review Board. He noted school districts are beginning to learn how to undertake the alternative public works process. There is more enthusiasm to look for alternative ways to complete projects that ensure safety, quality control, and a successful project in an occupied environment.

Chair Lynch said the legislature will expect to receive a request for a bill in the next session and will likely refer to the CPARB to develop some guidance regarding a recommendation/advice. He suggested the CPARB should step up to the task and perhaps be ready to provide a specific recommendation or include it within the CPARB's progress report to the legislature.

Mr. Absher asked for members to receive prior to the next meeting, the total number of projects have been submitted for GC/CM and how many have been approved. Representative Haigh asked to receive a list of criteria and some of the basic issues that have been deciding factors on the outcome. Mr. Vaught and Ms. Keller agreed to provide the data. Mr. Crowson requested additional information about the data that is collected on the projects. Larry Byers asked about the possibility of receiving a copy of a sample of a school district project that was approved and one that was declined. Mr. Vaught said he would check into the possibility of securing the documentation. Ms. Keller offered to provide a copy of the application form, criteria, and a sample of a successful and unsuccessful project.

Mr. Kommers inquired about the possibility of the Expansion Subcommittee drafting a recommendation. Ms. Yang recalled a pending issue that needed attention for the 2006 legislative session, which entails responding to school district projects. At the last meeting, Mr. Vaught was requested to provide a presentation with a recommended legislation. She said it was her expectation that the Board would review the issue to determine the next steps. There may be insufficient time to refer the issue to the subcommittee. Chair Lynch suggested discussing it at the next subcommittee meeting and if the subcommittee can attain a consensus, forwards a recommendation to the CPARB for consideration at the January meeting.

Representative Haigh emphasized developing a recommendation no later than early February to influence any legislation that may come forward. Chair Lynch advised members to consider any fatal flaws and be prepared to discuss the issues at the next meeting.

Charlie Brown, King County, Pierce County Schools Coalition, indicated the coalition has been working on the issue and was able to successfully pursue the original legislation as well as for additional projects over the years. Given the short legislative session, he suggested the Board consider a recommendation, if possible, at its January meeting, given the session timeline. He offered to assist the subcommittee in facilitating the issue.

Mr. Eng asked about the reasoning for not tying the number of projects to existing legislation. Mr. Vaught said the sunset of the current legislation is recognized and that there is no intent to be presumptuous that the sunset will be extended. There is a desire that if the legislation is extended for six years, the school districts would like a proposal that will ensure moving forward with projects. If the legislation is not extended, the proposal is for a one-year opportunity for additional authorizations. Once the issue is firmed up, the drafts of proposed legislative language could be finalized to meet the intent of the CPARB.

Mr. Brown said the request is to focus on the one-year period for additional authority to respect the process of the CPARB should the CPARB forward a recommendation that the alternative projects statute should be extended another six years. The coalition will then work to ensure the school construction statute is authorized in conjunction with the extension. At this point, the request is for authorization for several projects and nothing more. Currently, there are no more slots available to school districts.

Discussion ensued about the proposal with a suggestion by Chair Lynch to keep the strategy simple to more likely be successful for the first year.

Representative Haigh inquired about the board's budget and support structure. Mr. Brown said the project review board is staffed by the OSPI and it is an all-volunteer group that has no funding or budget. The Association of General Contractors has allowed the use of its facilities for several meetings of the board. Representative Haigh suggested including information about the board, that it is a volunteer board, and the names and qualifications of people serving on the board.

Nancy Deakins referred to the draft legislative language and noted "demonstration" has been dropped from the draft. She advised it might be required to document why "demonstration" should be removed. Mr. Brown said to the degree that if the Board continues to recommend projects as "demonstration projects" the proponents are amenable with inclusion of "demonstration." However, he asked consideration for authority of up to 26 projects given the upcoming construction season.

Decide on Subcommittees Work & Strategic Plan

Chair Lynch reported he anticipates the CPARB to have several deliverables. One is the strategic plan. Staff has been taking the information generated by the strategic planning session with Tom Brascher to develop a strategic plan. Additionally, there will be a report from the CPARB to include:

- Recommendation on the school district issue
- Other specific recommendations or advice to the Legislature

Chair Lynch asked for feedback from members on the contents of the report to the Legislature in January.

Ms. Keller offered the suggestion of the subcommittees creating schedules and an anticipated list of projects with milestone dates.

Representative Haigh reported the report is important because she must secure another year of funding for the CPARB. It would be helpful for her for the Board to have a clear, concise strategic plan including the deliverables to be accomplished in 2006

Rocky Sharp added it's important to have a report and milestone dates for specific deliverables.

Chair Lynch reported there is a recommendation from the Reauthorization Subcommittee to recommend an additional six years on the sunset data with the CPARB providing oversight. If the CPARB can agree with a recommendation, it could be included in the report as a specific outcome. Other groups, such as regional colleges, may also come forward and request reauthorization. The CPARB might also want to consider the issue and possibly address it. He asked Ms. Yang for input. Ms. Yang said she spoke with individuals previously and they have expressed an interest in wanting authority. Western Washington University has a project that could benefit from GC/CM. Chair Lynch offered that the Expansion Subcommittee could discuss the issue and possibly provide a recommendation.

Mr. Absher commented on a concern. During his tenure as a member of the Alternative Public Works Methods Oversight Committee, the committee became a clearinghouse for legislative bills drafted during the session. He expressed concerns that a similar situation could overwhelm the Board's upcoming meetings as there likely will be many bills that will affect the Board. The legislature may well take the bills and forward them to the CPARB for input. It may end up with the CPARB receiving 10 to 15 bills for review. The question is how to address the possibility as it will likely occur to some extent. Representative Haigh offered that the example is one good reason why the CPARB should have a strategic plan. The stronger the strategic plan and goals, the more likely the CPARB will focus on its legislative charge.

Ms. Crowson said one concern from her perspective is that her constituency will be properly and fairly represented and is part of the process. She noted the Data Collection Subcommittee is developing some specific measurements to address her constituency.

Chair Lynch reported after he and staff take the action plan and convert it to a narrative format, staff will electronically send the draft to members for review and feedback.

Set Regular Meeting Dates

Chair Lynch reported on proposed agenda items for the January 12, 2006 meeting:

- Competitive Negotiated Contracting
- School District Review Board and Hospital Review Board presentation on their respective process and results
- Update from subcommittees
- Review deliverables for January 2006

The January meeting will be held at the Department of General Administration from 9:00 a.m. to 12:00 p.m. in Room 332.

Adjournment

Chair Lynch adjourned the meeting at 11:30 a.m.

Prepared by: Valerie Gow, Recording Secretary
Puget Sound Meeting Services